

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION

LUIS ALEJANDRO GARZA

VS.

THE UNITED STATES OF  
AMERICA

§  
§  
§  
§  
§

CIVIL ACTION NO. B-02-154  
FEDERAL TORT CLAIMS ACT

---

**EXHIBIT "1"**

---

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
BROWNSVILLE DIVISION**

LUIS ALEJANDRO GARZA \*  
VS. \*  
\* CIVIL ACTION NO. B-02-154  
THE UNITED STATES OF \* FEDERAL TORT CLAIMS ACT  
AMERICA \*  
\*

**LUIS ALEJANDRO GARZA'S REQUEST FOR PRODUCTION TO THE  
UNITED STATES OF AMERICA**

TO: THE UNITED STATES OF AMERICA, DEFENDANT, by and through its attorney of record, to wit:

---

Ms. Nancy L. Masso  
Assistant U.S. Attorney  
600 E. Harrison St., No. 201  
Brownsville, Texas 78522

COMES NOW, Plaintiff, LUIS ALEJANDRO GARZA, in the above-entitled and numbered cause and submits these his first Request For Production to Defendant, THE UNITED STATES OF AMERICA.

You are hereby requested, pursuant to the Federal Rules of Civil Procedure, Rule 34, to make available to the Plaintiff, LUIS ALEJANDRO GARZA, at the Law Office of Barry R. Benton, 284 Ebony Ave., Brownsville, Texas, on the thirtieth (30) day after personal service of this Request upon you (thirty-three (33) days if your receipt is by mail or telephonic document transfer) for the purposes of inspecting,

**photographing, and copying, all documents and tangible things which are in your possession, your attorney's possession, or subject to your possession and are described and identified in Exhibit "A" attached hereto.**

**The above-referenced documents and tangible things to be produced will be duly safeguarded and returned to you with reasonable dispatch upon completion of the duplication process and without harm to the originals.**

**Respectfully submitted,**



Barry R. Benton  
284 Ebony Avenue  
Brownsville, TX 78520  
Telephone (956) 546-9900  
Facsimile (956) 546-9997  
State Bar No. 02176500  
Federal I.D. No. 3968  
LUIS ALEJANDRO GARZA

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 29<sup>th</sup> day of April, 2003, a true and correct copy of the above and foregoing Plaintiff's First Requests For Production to Defendant, was hand-delivered to all counsel of record, to wit:

Ms. Nancy L. Masso  
Assistant U.S. Attorney  
600 E. Harrison St., No. 201  
Brownsville, Texas 78522

BARRY R. BENTON  
BARRY R. BENTON

**EXHIBIT "A"**  
**ITEMS TO BE PRODUCED BY DEFENDANT**  
**THE UNITED STATES OF AMERICA**  
**DEFINITIONS**

**"Documents and tangible things"** - has the meaning given that phrase in Texas Rules of Federal Procedure 34, and also means the originals and all non-identical copies (whether by reason of marginal or other notes, markings, alterations, modifications, changes or amendments) of any writing or tangible thing, including, but not limited to any written, typewritten, handwritten, printed, transcribed, punched, taped, filmed, recorded, computer produced or graphic material, however produced or reproduced, correspondence, notes, telegraphs, telegrams, memoranda, contracts, inter-office or intra-office communications, offers, leases, agreements, transactions, of records or recordings, summaries or records of telephone or personal conversations, summaries of records or minutes of meetings or conferences, agendas meetings or conferences, studies, analysis, evaluation, work papers and all drafts, specifications, guidelines, technical journals, articles, instruction manuals, papers or other publications, drawings, maps, plans, tables, graphs, charts, bulletins, circulars, brochures, pamphlets, manuals, books, prospectuses, computer printouts, teletypes, telefax, invoices, graphic or manual records, photographs, notebooks, records, desk calendars or diaries, day books, business records, electronic, mechanical or electric records, or representation of any kind (including without limitation, tapes, cassettes, disks, recording, microfiche, microfilm, video tapes, and motion pictures, books of account, ledgers, budgets, or any other papers or things purporting to be a document and/or tangible thing).

**"Identify"** - means state the name, address and phone number.

**"The incident"** - means the incident that occurred on February 6, 2001 described in Plaintiff's lawsuit.

**"Recreational yard"** - means the recreational area at the Three Rivers Facility at or near where Plaintiff was injured.

**"Similar incidents"** - means assaults by multiple inmates upon one or more inmates at or around the recreational yard at the Three Rivers Facility during the past ten years.

**"The facility"** - means the Three Rivers Correctional Facility at Three Rivers, Texas.

**"Exhibit A"** - means the letter to Barry R. Benton from Michael D. Hood Regional Counsel for the Federal Bureau of Prisons dated January 25, 2002.

**REQUEST FOR PRODUCTION**

1. All medical records, reports or documentation reflecting treatment, care, diagnosis or prognosis created by health care providers relating to injuries suffered by Plaintiff in the incident.

***RESPONSE:***

2. The approximate 6,000 pages identified by Mr. Michael D. Hood Regional Counsel for the Federal Bureau of Prisons as documents relating to the incident as stated in his letter to Plaintiff's counsel dated January 25, 2002 and is attached hereto as Exhibit "A".

---

***RESPONSE:***

3. Any documents which reflect that any employee was reprimanded, sanctioned or criticized as a result of the incident.

***RESPONSE:***

4. Documents which comprised the investigation by the Federal Bureau of Investigation.

***RESPONSE:***

5. Documents which reflect the standards, rules or policies pertaining to avoidance of riots or assaults such as the incident, including standards applying specifically to the recreation yard at the facility such as number and location of guards and the proper procedure once such riotous behavior commences.

***RESPONSE:***

6. Any governmental policy or standard addressing or which applies to the gathering together of four or more inmates at one place at one time in the recreational yard at the facility.

***RESPONSE:***

**7. Documentation of similar incidents.**

**RESPONSE:**

- 8. Documents which reflect recommendations on how to avoid incidents similar to the incident.**

**RESPONSE:**

- 9. Any report created or generated by any expert which Defendant intends to call as a witness.**

**RESPONSE:**

- 10. All video tapes or photographs relating to the incident, including depictions of the scene where the incident occurred or injuries suffered by Plaintiff or other inmates as a result of the incident.**

**RESPONSE:**

- 11. Any statements, recorded in any manner, by Plaintiff or other persons having knowledge of relevant facts .**

**RESPONSE:**



**U.S. Department of Justice**

**Federal Bureau of Prisons**

***South Central Regional Office***

*4211 Cedar Springs Road, Suite 300  
Dallas, Texas 75219*

**January 25, 2002**

Barry R. Benton  
Attorney at Law  
284 Ebony Avenue  
Brownsville, Texas 78520-8014

**Re: Freedom of Information/Privacy Act Request No. 2001-09356  
GARZA, Luis, Register Number 92434-079**

Dear Mr. Benton:

This is in response to your recent request for a copy of all records pertaining to an alleged assault occurring on February 6, 2001, which you state resulted in injury to Mr. Garza.

The documents responsive to your request total approximately six thousand (6000) pages. Title 28, Code of Federal Regulations, Section 16.11(a), requires that for all copies in excess of one hundred (100), we charge ten cents (.10) per page. Thus, for the estimated six thousand (6000) pages relevant to your request, a fee of five hundred ninety dollars and 00/100 (\$590.00) is due. Please forward a money order or check in the amount of five hundred ninety dollars and 00/100 (\$590.00), made payable to the Department of Treasury, to this office. Upon receipt of the assessed fees, the documents will be released to you.

If you wish, you may provide this office with a letter modifying your request to reduce the fees. Please note that your request will be closed thirty days from the date of this letter, at which time you will be required to resubmit your request to the Bureau of Prisons, 320 First Street, N. W., Washington, D.C. 20534.

Additionally, the incident is currently the subject of an investigation by another law enforcement agency. Therefore, certain information pertaining to the matter will be withheld pursuant to Title 5, United States Code, Section 552(b)(A), because release of the information could reasonably be expected to interfere with enforcement proceedings.

Upon conclusion of the investigation, you may seek release of the non-disclosed information. Your request should be directed to: Office of General Counsel, 320 First Street, N. W., Washington, D.C. 20534. Both the envelope and request should be clearly marked "Freedom of Information Request."

**SENSITIVE - LIMITED OFFICIAL USE**

**PLAINTIFF'S  
EXHIBIT**

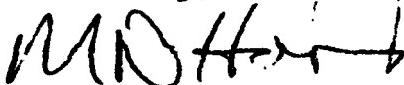
**A**

GARZA, Luis  
Register Number 92434-079  
FOIA/PA Request No. 2002-09356  
Page 2

Pursuant to Title 28, Code of Federal Regulations, Section 16.9, this action may be appealed to the Attorney General within sixty (60) days of the date of this letter by writing to the Office of Information and Privacy, Department of Justice, Flag Building, Suite 570, Washington, D.C. 20530. Please ensure that the envelope and request are clearly marked "FOI Request Appeal."

Please refer to the above indicated request number when making future inquiries regarding this request.

Sincerely,



\_\_\_\_\_  
Michael D. Hood  
Regional Counsel

vv